



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8493 of 2021

and

W.M.P. (MD) .No.6388 and 6389 of 2021

M.Karpagam

... Petitioner

Vs.

1. The District Collector, Thenkasi District.
2. The Revenue Divisional Officer,
Sankarankovil, Thenkasi District.
3. The Tahsildar,
Sivagiri Taluk, Thenkasi District.
4. The Inspector of Police,
Sivagiri Police Station, Thenkasi District.

5.A.Jayaraj

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in the impugned cancellation of assignment order passed by the second respondent in Na.Ka.No.A1/3042/2020, dated 16.03.2021 and quash the same and consequently direct the respondents 1 to 4 to provide necessary protection to the petitioner to complete the construction work as per assignment order in Na.Ka.No.A1/5259/2019, dated 31.01.2020.

For Petitioner

: Mr.M.Ramu

For R-1 to R-4

: Mrs.M.Rajeswari

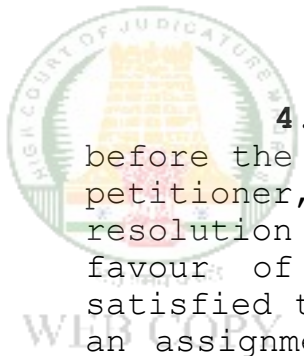
Government Advocate

ORDER

On consent given by either side, the main Writ Petition itself is taken up for final hearing.

2. The subject matter of challenge in the present Writ Petition is the impugned order passed by the second respondent, dated 16.03.2021, wherein, the assignment patta granted in favour of the petitioner has been cancelled.

3. Heard Mr.M.Ramu, learned counsel appearing on behalf of the petitioner and Mrs.M.Rajeswari, learned Government Advocate, appearing for the respondents 1 to 4.



4. It is seen from records that the petitioner had applied before the third respondent for a free house site. According to the petitioner, the concerned Village Panchayat had also passed a resolution and recommended for the issuance of free house site in favour of the petitioner. The first respondent after being satisfied that the petitioner has fulfilled the requirements, issued an assignment patta in favour of the petitioner on 31.01.2020 for Survey No.327/26, measuring an extent of 119 square metres.

5. It is seen that the fifth respondent along with others seems to have made a complaint against the petitioner as if the petitioner is encroaching upon the Government property and was attempting to put up a construction and the fifth respondent in fact filed a writ petition before this Court in W.P.(MD).No.7370 of 2020 seeking for the removal of the encroachment.

6. The Division Bench of this Court passed final orders in the said Writ Petition on 18.02.2021. At that point of time, the Division Bench was informed that the assignment patta has been granted in favour of the petitioner and pursuant to the same, she has commenced the construction work. The Division Bench on considering the facts and circumstances of the case, dismissed the Writ Petition after finding that there are no merits in the case.

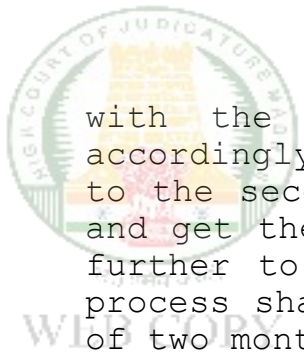
7. Thereafter, yet another complaint seems to have been given by the fifth respondent once again and based on the same, the second respondent has proceeded to cancel the assignment patta granted in favour of the petitioner through the impugned order, dated 16.03.2021.

8. It is seen from the order that the petitioner was never put on notice and in fact the petitioner was directed by the third respondent to attend the enquiry on 15.11.2019 and thereafter, there was no notice to the petitioner and the petitioner was not even informed by the second respondent that a report is going to be called for from the third respondent and orders are going to be passed based on the complaint given by the fifth respondent.

9. The second respondent in the impugned order has given various reasons for cancellation of the assignment patta and these reasons are based on the report given by the third respondent.

10. The impugned order passed by the second respondent is liable to be interfered by this Court merely on the ground that it is in violation of principles of natural justice. The petitioner, having been given an assignment patta, should be given an opportunity before the same is cancelled. The cancellation of the assignment patta results in civil consequences and therefore, no adverse order can be passed without giving an opportunity.

11. In view of the above, this Court has no hesitation to interfere
<https://hcservices.ecourts.gov.in/hcservices/>



with the impugned order passed by the second respondent and accordingly, the same is hereby quashed. There shall be a direction to the second respondent to issue a fresh notice to the petitioner and get the explanation from the petitioner and thereafter, proceed further to pass orders strictly in accordance with law. The said process shall be completed by the second respondent within a period of two months from the date of receipt of a copy of this order.

12. The Writ Petition is accordingly allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.
tsg

To

- 1.The District Collector, Thenkasi District.
2. The Revenue Divisional Officer,
Sankarankovil, Thenkasi District.
3. The Tahsildar,
Sivagiri Taluk, Thenkasi District.
4. The Inspector of Police,
Sivagiri Police Station, Thenkasi District.

+1 CC to M/s.SPL GP (SR-17913[F] dated 28/04/2021)

Order made in
W.P. (MD) .No.8493 of 2021

Dated:

26.04.2021